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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/823,871

04/14/2004

Andrew T. Davis

101

6176

50986

7590

01/23/2008

LAW OFFICE OF DAVID H. JUDSON

15950 DALLAS PARKWAY

SUITE 225

DALLAS, TX 75248

EXAMINER

MIRZA, ADNAN M

ART UNIT

PAPER NUMBER

2145

MAIL DATE

DELIVERY MODE

01/23/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/823,871

**Applicant(s)**

DAVIS ET AL.

**Examiner**

ADNAN M. MIRZA

**Art Unit**

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-18 are rejected under 35 U.S.C. 102(e) as being unpatentable by Melchione et al (U.S. 2004/0006586).

As per claims 1,7,12 Melchione disclosed a method operative in a distributed network having a set of server region, each server region having a set of servers each provisioned with a manager process and an application framework on which application components are executed in response to service requests, comprising: generating a first data set identifying, for a given server region (Page. 3, Paragraph. 0052), which application components are actually loaded on which servers; generating a second data set identifying, for the given server region, which application components should be loaded on which servers (Page. 4, Paragraph. 0070); publishing the first and second data sets to each manager process in the set of servers in the given server region; responsive to a service request received at a manager process on a given server in the given server region, determining whether an instance of a given application component is loaded on the given server; and if the instance of the given application component is not loaded on the given

server, directing the service request to another server in the set of servers in the given server region as a function of information in the first and second data sets (page. 9, Paragraph. 0136).

3. As per claims 2,13 Melchione disclosed wherein the service request is directed to a server that, as indicated by the first data set, the given application component is loaded (Page. 10, Paragraph. 0151).

4. As per claims 3,16 Melchione disclosed further including the step of generating a second data set identifying which application components should be loaded on which servers (Page. 10, Paragraph. 0152).

5. As per claim 4 Melchione disclosed wherein the service request is directed to a server on which the given application component is loaded irrespective of whether the given application component, as indicated by the second data set, should be loaded on the server (Page. 11, Paragraph. 0169).

6. As per claims 5,10,17 Melchione disclosed further including, at a given server, the step of loading one or more application components on the given server according to information in the second data set (Page. 11, Paragraph. 0170).

7. As per claims 6,11,18 Melchione disclosed further including, at a given server, the step of unloading one or more application components from the given server (Page. 11, Paragraph. 0168).

8. As per claims 8,14 Melchione disclosed wherein the service request is directed to a server in the given server region that, as indicated by the second data set, the given application component should be loaded and that, as indicated by the first data set, the given application component is actually loaded (Page. 10, Paragraph. 0151-0152).

9. As per claims 9,15 Melchione disclosed wherein the service request is directed to a server in the given server region that, as indicated by the first data set, the given application component is actually loaded irrespective of whether the second data set indicates that the application component should be loaded (Page. 12, Paragraph. 0177).

### ***Response to Arguments***

10. Applicant's arguments filed 11/02/2007 have been fully considered but they are not persuasive. Response to applicant's argument is as follows.

A. Applicant argued that Melchione did not disclose, "directing the service request to another server in the set of servers as a function of information in the first data set."

As to applicant's argument Melichione disclosed, "The agent sends a communication to a data center via the proxy server. The communication is directed to the proxy server with an indication that the proxy server is to forward the message to the data center on behalf of the sending agent. The proxy server receives the communication from the agent and then forwards the communications from a data center via a proxy server (Page. 12, Paragraph. 0174).

### ***Conclusion***

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

12. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Adnan Mirza whose telephone number is (571)-272-3885.

13. The examiner can normally be reached on Monday to Friday during normal business hours. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571)-272-3933. The fax for this group is (703)-746-7239. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

14. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866)-217-9197 (toll-free).

/A. M. M./

Examiner, Art Unit 2145

Adnan Mirza

/Jason D Cardone/  
Supervisory Patent Examiner, Art Unit 2145